

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.139 OF 2017

**DISTRICT : KOLHAPUR
SUBJECT : SERVICE
CONDITIONS**

- 1) Shri Balgonda Ramgonda Ballana,)
Aged about 50 years, Live Stock Supervisor)
Taluka Mini Polyclinic, Kagal (Veterinary),)
District Kolhapur, and residing at and post)
Sulkhed, Taluka Kagal, District Kolhapur.)
- 2) Shri Ashok Lingappa Gawade,)
Aged about 41 years, Live Stock Supervisor)
Taluka Mini Veterinary Polyclinic,)
Jaysingpur, Taluka Sirod, Dist. Kolhapur.) ... **Applicant**

Versus

The Government of Maharashtra,)
Through Principal Secretary,)
Agriculture, Animal Husbandry and Dairy)
Development Department,)
Mantralaya, Mumbai – 400 032.) ... **Respondents**

Shri Makarand D. Lonkar, learned Advocate for the Applicant.

Shri Ashok J. Chougule, learned Presenting Officer for the Respondents.

**CORAM : A.P. KURHEKAR, MEMBER (J)
DEBASHISH CHAKRABARTY, MEMBER (A)**

DATE : 31.07.2023.

PER : A.P. KURHEKAR, MEMBER (J)

JUDGMENT

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The Applicants who are working as Livestock Supervisor have challenged last paragraph of Circular dated 20.07.2011 whereby presence of registered veterinary practitioner is dispensed with while rendering the minor veterinary services by Livestock Supervisor invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

3. Shortly stated undisputed facts giving rise to this O.A. are as under:-

The Applicants are serving as Livestock Supervisor having Diploma in Livestock Supervisor. The Applicant No.1 was appointed as Livestock Supervisor in 1996 and working at Taluka Veterinary Mini Polyclinic. Whereas, Applicant No.2 has been appointed as Livestock supervisor in 2000 and working at Taluka Veterinary Mini Polyclinic. Both the Applicants have completed livestock training course. They are performing duties as minor veterinary supervisor as define under Section 30 of the Indian Veterinary Council Act, 1984. As per definition of minor veterinary supervisor under Section 30 it means the rendering of preliminary veterinary aid, like, vaccination, castration, and dressing of wounds, and such other types of preliminary aid or the treatment of such ailments as the State Government may, by notification in the official gazette, specified in this behalf. Later Government by notification dated 27.08.2009 in pursuance of the powers conferred by the explanation to the proviso to Clause (b) of Section 30 read with Section 57 of the Indian Veterinary Council Act, 1984 and in supersession of all the other notification specified the following services as minor veterinary services to be permitted by the Government of Maharashtra which are as follows:-

- i. To render preliminary aid to ailing animals and birds;
- ii. To carry out dressing of superficial surgical ailments like wounds (including sutured or surgical wounds), abscesses, fistula, burns, haemorrhages;
- iii. To administer antiseptics, intrauterine;
- iv. To carry out painting of cervix in animals with medicaments like Lugol's or Povidone iodine solution;

- v. To render preliminary aid in the prolapse cases;
- vi. To render preliminary aid through oral administration of analgesics and antipyretics in cases of pain and fever;
- vii. To render preliminary aid in non-infectious diseases like tympany, bloat, constipation, impaction, diarrhea, dysentery;
- viii. To assist Registered Veterinary Practitioner, in charge of Veterinary polyclinic, Mini polyclinic and Veterinary dispensary while performing operations and treatment of animals;
- ix. To record temperature of animals and birds;
- x. To carry out washing of mouth, hooves, eyes, ears of animals with required antiseptic lotions for diseases and ailments like FMD, Foot Rot, Otitis, Conjunctivitis, etc.
- xi. To render preliminary aid in cases of simple fractures in animals;
- xii. To carry out disinfection of livestock and poultry houses;
- xiii. To carry out application of relevant medicaments or spraying of animals and birds for control of ectoparasites.
- xiv. To carry out castration of scrub bulls, rams and bucks by closed method,
- xv. To vaccinate animals and birds against various diseases;
- xvi. To compound and dispense medicines to ailing animals;
- xvii. To perform Artificial Insemination and carry out follow up and maintain relevant record;
- xviii. To collect blood, serum, urine, focal samples, semen, milk and other specimens for laboratory examinations; dispatching and processing of the same;
- xix. To apply or administer the drugs specified in the "Schedule H" of the Drugs and Cosmetics Rules, 1945 made by the Government of India under the Drugs and Cosmetics Act, 1940 (23 of 1940) as per the prescription of the Registered Veterinary Practitioner; and in the stipulated quantity as prescribed by the Registered Veterinary Practitioner;
- xx. To render preliminary aid in case of emergency like poisoning, snake bite, electrocution, dystocia, wild animal attacks, natural calamities, accidents, etc.;
- xxi. To administer or apply antimicrobials, antifungals, antibiotics, hormones, chemotherapeutic agents against blood protozoan, anthelmintics and insecticides against ecto and endo parasites under the supervision or direction of a Registered Veterinary Practitioner;
- xxii. To assist Registered Veterinary Practitioner in surveillance of infectious diseases, laboratory investigations, vaccine production, quality control and any other technical work assigned by the Registered Veterinary Practitioner.

Provided that, all above minor veterinary services shall be performed under the supervision and directions of the Registered Veterinary Practitioner."

4. Government later issued Circular dated 20.07.2011 and last paragraph of the Circular dispensed with the physical presence of veterinary supervisor which is under challenged in present O.A. In circular dated 20.07.2011 which is as under:-

“परिपत्रक :-

उपरोक्त वाचा मधील अधिसूचना क्र. १ व २ अन्वये प्रमाणपत्र / पदविकाधारकांसाठी किरकोळ पशुवैद्यकीय सेवा विनिर्दिष्ट करण्यात आलेल्या आहेत.

सध्या राज्यामध्ये श्रेणी -२ चे २८५३ पशुवैद्यकीय दवाखाने आहेत; तसेच श्रेणी-१ व श्रेणी-२ च्या दवाखान्यांवर पशुधन पर्यवेक्षक / सहायक पशुधन विकास अधिकारी / पशुधन विकास अधिकारी (गट-ब) कार्यरत आहेत. शासनाकडून सदरच्या दवाखान्यांना निरनिराळ्या औषधींचा पुरवठा करण्यात येतो. दिनांक २७/८/२००९ च्या अधिसूचनेमध्ये औषधींचा विनियोग याबाबीचा समावेश नसल्यामुळे दैनंदिन दवाखान्यातील कामकाजामध्ये अडचणी निर्माण होत आहेत. असे निदर्शनास आले आहे.

या सदर्भात स्पष्ट करण्यात येते की, “ पशुवैद्यकीय दवाखान्यांस शासनामार्फत ते पुरवठा केलेल्या औषधींचा पशुधन पर्यवेक्षक / सहायक पशुधन विकास अधिकारी / पशुधन विकास अधिकारी (गट-ब) यांना नोंदणीकृत पशुवैद्यकाच्या देखरेखीखाली व निर्देशानुसार वापरणेची या द्वारे अनुमती देण्यात येत आहे.”

तसेच परिपत्रक क्र.आयव्हीसी १००६/प्र.क्र.३२ (भाग-२)/पदुम-४ दि.८/३/२०११ नुसार करण्यात आलेले स्पष्टीकरण यास लागू राहिल. तसेच या बाबीसाठी नोंदणीकृत पशुवैद्यक प्रत्यक्ष उपस्थित राहण्याची आवश्यकता नाही.”

5. Shri M.D. Lonkar, learned Advocate for the Applicant sought to assail last paragraph of Circular dated 20.07.2011 of State Government *inter-alia* contending that the dispensing the presence of registered veterinary practitioner while rendering veterinary services by the Applicant is contrary to the law and unconstitutional. According to him the presence of registered veterinary practitioner is must so as to avoid further complication and minor mistake likely to be committed by Livestock supervisor while rendering veterinary services. In other words, according to him the Veterinary supervisor are not well equipped so as to perform some difficult task while rendering minor veterinary services, and therefore dispensing the presence of registered veterinary practitioner be declared to be unsustainable in law.

6. Per contra, Shri A.J. Chougule, learned P.O. for the Respondents sought to justify Circular dated 20.07.2011 of State Government *inter-alia* contending that provision in Indian Veterinary Council Act, 1984

nowhere mandates the presence of registered veterinary practitioner and all that the minor veterinary services are required to be performed under the supervision and direction of the registered veterinary practitioner as per proviso under Section 30 Clause 'B' as notified on 27.08.2009. He further submits that where any minor veterinary services requires presence of registered veterinary practitioner, in that event situation depending upon the ailments and circumstances of the matter, presence of registered veterinary practitioner can be secured.

7. In view of submission, small issue posed for consideration is whether last paragraph of Circular dated 20.07.2011 declaring presence of registered veterinary practitioner not necessary is in conflict with the provision of Indian Veterinary Council Act, 1984 and liable to be declared unsustainable in law.

8. As stated above, initially under Section 30 explanation to Clause B of Indian Veterinary Council Act, 1984, minor veterinary services means rendering preliminary or veterinary aid and later by notification dated 27.08.2009 what could be termed as minor veterinary services are clarified. The perusal of notification dated 27.08.2009 makes it quite clear that those are in the nature of preliminary aid and treatment of some minor ailment of livestock. Proviso is important which states that above all minor veterinary services, shall be performed under the supervision and direction of the registered veterinary practitioner. Thus all that as per proviso, such minor veterinary services are required to be performed under the supervision and direction of registered veterinary services. Notably, it doesn't states that minor veterinary services shall be performed in the physical presence of registered veterinary practitioner. There is difference between physical presence and supervision of registered veterinary practitioner. Legislative in it's wisdom all that provided, that minor veterinary services shall be performed under the supervision and direction of registered veterinary practitioner. This being so, veterinary supervisor require to render

minor veterinary services under the supervision and direction of registered veterinary practitioner without insisting of physical presence since veterinary supervisor are working at remote rural places at Village level and registered veterinary practitioner is posted at Taluka Headquarters. Therefore for not only to provide better access to minor veterinary services in rural areas, but also to provide them quickly, the veterinary supervisor have been authorized under law to render such minor veterinary services under supervision and directions of registered veterinary practitioners. Where particular ailments needs diagnosis by registered veterinary practitioner, in that event the matter can be referred to registered veterinary practitioner. However, insisting of registered veterinary practitioner physical presence for rendering minor veterinary service is not at all contemplated by the law.

9. It is on the above background, Government issued Circular dated 20.07.2011 of State Government clarifying that presence of registered veterinary practitioner is not necessary while rendering minor veterinary services by veterinary supervisor so that veterinary supervisor should not avoid the rendering of services on the pretext of absence of veterinary practitioner.

10. Thus where the physical presence of registered veterinary practitioner is not at all contemplated the insistence of physical presence of registered veterinary practitioner is totally unacceptable. All that they are rendering are minor veterinary services which can be done under the supervision and direction of registered veterinary practitioner. Supervision means overseeing and issuance of certain direction which can be done by taking guidance on telephone or through video-conference which is now available everywhere with developments in mobile and information technology. Such supervision can thus happen and directions can be taken by veterinary supervisor depending upon ailment of livestock and circumstances of each of the minor veterinary services. There can be a ailment of livestock where physical presence

would be desirable and all that it depends upon the facts of each case examined and handed by the veterinary supervisor. Livestock supervisor does not perform the work of registered veterinary practitioner including that of surgeon and all that their services are of preliminary aid to the livestock.

11. As such, in our considered opinion the Circular dated 20.07.2011 of State Government is only clarification of the proviso to Section 30 as notified in Notification dated 27.08.2009 and we do not see any illegality therein. It is only in a case where Circular or Notification issued by State Government is directly in conflict with the law or in derogation to the provision in law in that event only such Circular or Notification can be questioned or interdicted. However, in the present case it is not so.

12. For aforesaid reasons we see no merit in the challenge to the Circular dated 20.07.2011 of State Government and the Original Application is devoid of merit. Hence the Order.

ORDER

The Original Application is dismissed with no order as to costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 31.07.2023
Dictation taken by: N.M. Naik.

Uploaded on: _____